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ABSTRACT

This newsletter issue brings to students' attention some of the topics they could explore in working toward an award that the Arab World and Islamic Resources and School Services (AWAIR) organization presented to students participating in History Day 1991. The special category of the awards is Arab or Islamic history. The topics presented were not intended to be exhaustive of the possibilities, but to suggest areas for further student investigation. Topics discussed include the ancient middle eastern origins of law codes; rights under the Islamic law, the Shari'ah; Arab Americans involved in rights issues; the rights of Palestinians; and international law and the Persian Gulf War. Lists of sources are included for most topics. The section on the ancient origins of law codes discusses the early codes of the Sumerians and Babylonians, including the code of Hammurabi. The section on the Shari'ah lists the 12 departments into which this body of law is divided: (1) rituals and liturgy; (2) personal status; (3) contracts; (4) torts; (5) criminal law; (6) constitutional law; (7) taxation and public finance; (8) administrative law; (9) land law; (10) law of trade and commerce; (11) international law; and (12) ethics and personal conduct. The article explains that the Shari'ah is derived from the Quran, the sunnah or practices of the prophet Mohammad, consensus of opinion, and reasoning by analogy. In the section on Arab Americans, Ralph Nader, the consumer advocate, and attorneys Russell Mokhiber and George Shibley are profiled. (DK)

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Resources for History Day 1991: Rights in History

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AWAIR's Middle East Resources

A quarterly newsletter for Social Studies Educators Vol I, No. 1 1991

Resources for HISTORY DAY 1991 – "Rights in History"

AWAIR will be presenting awards to students participating in History Day 1991. The special category of our award is Arab or Islamic History. Awards will be presented at the state level of competition in California, Texas, Massachusetts, Michigan, Minnesota and Washington D.C., as well as at the National level.

History Day is a highly regarded national program involving now 400,000 students and over 50,000 teachers and media specialists from the 50 states and the District of Columbia. Designed for students in grades six through 12, the program culminates in a national contest after a series of competitions at local and state levels. Student competition is a program that encourages young people to conduct extensive research and to explore historical subjects related to an annual theme. Contest categories include: paper, performance, media presentation and project. If your school does not now participate in History Day, find out how you can become participants by writing to: National History Day, 11201 Euclid Avenue, Cleveland, Ohio 44106.

In this issue of AWAIR's Middle East Resources, we bring to students' attention some of the topics they may wish to explore in working toward an AWAIR award. The topics presented here are not meant to be exhaustive of the possibilities, but to whet student appetite for further investigation.

ANCIENT MIDDLE EASTERN ORIGINS OF LAW CODES

Human rights had their beginnings in the early law codes developed in the early civilizations of the Tigris-Euphrates Valley and in the Nile Valley. The first civilization on earth – so far as we know – was that of the Sumerians in the Tigris-Eurphrates Valley in the fortieth century B.C..They built elaborate irrigation systems, traded with their neighbors and other peoples, introduced a monetary system, and drew up codes of law.

These law codes survive thanks to the Sumerians' most important innovation - the development of the art of writing. From their original pictorial writing they evolved a cuneiform script and many of their hard clay tablets survive. The Sumerians, however, were unable to unite politically and were eventually absorbed by such peoples as the Akkadians and then the Amorites.

Absorbing the culture of the Sumerians and the Akkadians, the Amorites founded the Old Babylonian Empire. They are remembered for their greatest king, Hammurabi, who is best known for his legal code, which consisted of 282 regulations affecting the social and economic affairs of the people. The epilogue, at the bottom of the stele, promised rewards to those who obeyed the laws and punishment to those who disobeyed.

Since agriculture was the most important occupation and the greatest source of wealth, many of the laws concern the cultivation of the fields and the maintenance of irrigation system:
...53. If a seignior [a free or noble man] is too lazy to construct (the dyke of) his field strong, and a break has opened up, and he has accordingly let the water ravage the farmland, the seignior in whose dyke the break was opened shall make good the grain that he let get destroyed.
...54. If he be not able to make good the grain, they shall sell him and his goods, and the farmer whose grain the water has carried off shall divide the profits of the sale.

A concept of strict accountability is evident in these examples: if the farmer was unable to pay for losses he had caused through carelessness, he could be sold into slavery to settle the account. This same principle also extended to people in other trades, such as building. A builder whose careless workmanship resulted in an accidental death was subject to the death penalty.

The code reveals that there were three distinct strata in Babylonian society; the nobles, who were the priests of the temple and the officials of the palace; the commoners, who were the farmers, artisans and merchants; and the slaves, who had either been purchased or taken as prisoners of war. While the nobles and the commoners were held to the highest level of accountability for injuries they did to each other, crimes against slaves were considered less serious. If a noble injured a slave, his penalty was much less severe than if he had injured another noble or a commoner. The following excerpts illustrate this principle:
...196. If a seignior has destroyed the eye of a member of the aristocracy, they shall destroy his eye...
...200. If a seignior has knocked out the tooth of a seignior of his own rank, they shall knock out his tooth...
...201. But if he has knocked out a commoner's tooth he shall pay one-third mina of silver.

We do not know how often the penalties in Hammurabi's code were actually carried out, for only a few law court records have

been found. However, the code itself had an important influence on the behavior of people long after the fall of Babylon. In fact, the Law of Moses contains many similarities to it.

SOURCES: for quotes – J.B. Pritchard, *Ancient Near East Texts Relating to the Old Testament* (Princeton University Press, 1955). For your own research – consult this or any volume of historical documents, such as *Documents in World History, Vol. I: The Great Traditions: From Ancient Times to 1500*, Peter N. Stearns, editor (Harper & Row, Publishers, 1988).

RIGHTS IN ISLAM: THE SHARI'AH

As the chief source of Islamic doctrine and practice, the Quran is the main foundation of the *shari'ah*, the sacred law of Islam, which covers all aspects of the public and private, social and economic, religious and political lives of all Muslims. In addition to the Quran the shari'ah has three sources: the *sunnah*, the practices of the Prophet Muhammad; *ijma'*, the consensus of opinion; and *qiyas*, reasoning by analogy. The sunnah - which supplements and complements the Quran, the Word of God, and is next to it in importance – embodies the meticulously documented acts and sayings of the Prophet recorded in a body of writings called the *hadith*. Ijma' is the consensus of qualified jurists on matters not specifically referred to in the Quran or the sunnah. Qiyas is the application of human reasoning to extend the principles found in the two primary sources – the Quran and the sunnah – to cases involving matters unknown in the early years of Islam.

The twenty-seven companions of the Prophet distinguished themselves in the formation of legal opinion. And before this era had passed away, the Caliph Umar Ibn Al-Khattab (usually called simply "Omar " in the West) had this body of legal opinion, which became the fountainhead of Islamic jurisprudence, codified. It included the following principles:

1. Rendering justice to those who seek it is both an Islamic duty and inevitable.
2. In the court of law all persons are equal.
3. The burden of proof falls on the complainant; that of swearing on the defendant.
4. Any party's request for time to produce the relevant evidence must be granted, within reason. Failure to produce the evidence is evidence to the contrary.
5. A judgement proven false by evidence ought to be revoked.
6. All adult Muslims are legal persons, except those convicted of perjury or of a crime.
7. No human may be charged for his intentions. Only actions may be so charged and under legal evidence.
8. Where you find the Quran and the sunnah silent on any matter, find the comparable case or principle and deduce or extrapolate the law from it.
9. That which the Muslim collectively has found good and desirable is so from the standpoint of God.

Islam affirms the relation between God and all humans to be one and the same. It rejects therefore all claims of favoritism or chosenness of any humans. Translated into law, this egalitarianism prescribes that none may be exempted from the law on the ground of identity. Neither race nor ethnicity, neither sex no position in society, neither wisdom nor wealth can alter their equality before the law. The Prophet Muhammad admonished his own children, saying that the fact that he was their father availed them of nothing. Governors of provinces and newly converted kings were subject to retaliation by the least person whose rights they had violated.

The body of laws constituting the shari'ah is usually divided into twelve departments:

1. rituals and liturgy
2. personal status
3. contracts
4. torts
5. criminal law
6. constitutional law
7. taxation and public finance
8. administrative law
9. land law
10. law of trade and commerce
11. international law
12. ethics and personal conduct

Any one of these would be a fascinating topic to investigate. For example, "International Law": did you know the origins of international law were here in the early Islamic Empire? Ibn-Battuta, the great geographer and commentator on life during the 14th century, was able to travel so far (75,000 across three continents) because the Islamic world at the time was far-flung, centrally governed and peaceful.

He was able to stop and work as a judge wherever he went because Islamic law was in use in most of the places he visited. For example, "Islamic Banking Law": did you know that Islamic banking laws prohibit the taking of interest on loans, since this is considered a selfish taking advantage of the borrower? A faithful Muslim is forbidden to collect interest even on savings deposits. An Islamic bank lends money to a client – to finance a factory, for example – in return for which the bank will get a specified percentage of the factory's net profits for a designated period. In order to pay back the loan should the factory lose money, the bank, its depositors and the borrower all jointly absorb the losses, thereby putting into practice the Islamic principal that the providers and users of capital should share risks and rewards.

R. Marston Speight, director of the Office on Chrisitan-Muslim Relations of the National Council of Churches has noted that because Islam is so "God-centered, it speaks of duties more often than of rights when talking about social justice. When precepts are lived out in faith, and that of duties; if believers fulfill their social duties, then the focus on duties fulfills the theological function of keeping God, rather than human beings, at the center of life." As an example, the U.N. Declaration of Human Rights says that men and women have the right to marriage with their

free consent. Islam says it is the duty under God of all involved – parents, guardians and legal authorities – to procure the free and full consent of the intending spouses.

SOME SUGGESTED TOPICS: "Islamic Law's Advances in the Rights of Women," "Origins of Banking Laws: 10th Century Islamic Empire," "Islamic Law: Origins of International Law."

SOME RESOURCES TO ASSIST YOU: Cherif Bassiouni, *Introduction to Islam* (Rand McNally: 1988).
John L. Esposito, *Islam: The Straight Path* (Oxford University Press: 1988).
Isma'il R. Al-Faruqi and Lois Lamya' Al-Faruqi, *The Cultural Atlas of Islam* (Macmillan Publishing: 1986), particularly valuable is Chapter 14 "The Law."
Elizabeth Fernea and Basima Bezirgan, *Middle Eastern Muslim Women Speak* (Univ. of Texas Press: 1987).
Abdul Ala Mawdudi, *Towards Understanding Islam* (Islamic Foundation: 1988).
John Sabini, Islam: *A Primer* (Middle East Editorial Associates: 1988).
R. Marston Speight, *God is One: The Way of Islam* (Friendship Press, P.O. Box 37844, Cincinnati. OH 45222: 1989).

The Speight work, together with Chapter 14 of the Al-Faruqi work, will be the most valuable to students working on topics related to Islamic law. Do not hesitate to call upon us at AWAIR if you have any difficulty in locating copies of these works.The staff of AWAIR (415) 504-0517, and Sharifa Alkhateeb at the International Institute of Islamic Thought (703) 471-1133, will be more than glad to assist you as well, in finding someone to interview.

ARAB-AMERICANS INVOLVED IN RIGHTS ISSUES

RALPH NADER is, of course, known to everyone as this century's champion of the rights of consumers, and is usually included in anyone's list of the most important people of the twentieth century.

Unsafe At Any Speed, Nader's indictment of the auto industry, launched Nader's Raiders' campaigns in many other areas and suggested innovative ways of dealing with corporate crime. In the case of Ford's Pinto faulty gas tank that became an inferno, Ford might have been required to set up regional burn centers as an alternative to monetary fines.

In 1984 Nader charged the Reagan administration with concealing a "secret report" that outlined a plan for cutting back black lung benefits to miners and their survivors, suggesting in the case of black lung disease that "making a coal executive work in a coal mine for two years is better than putting him in a cushy jail." Nader has contented that the only limits to imaginative and effective community service orders are those binding the minds of legislators and sentencing judges.

RUSSELL MOKHIBER has become "The Corporate Crime Monitor" keeping a watchful eye on the rights of all who might become the victims of corporate crime. Mokhiber is the lawyer who edits *Corporate Crime Reporter*, a weekly newsletter based on Washington D.C.

Palestinians Have Rights, Too

SUGGESTED TOPICS:

1. International Law and Question of Palestine
2. Herzl to Balfour to Partition: What Happened to the Right of Self-Determination?
3. Children of the Stones: Palestinians Struggle for the Right of Self-Determination
4. The U.N. Speaks: Who Listens?

Mokhiber has documented notorious acts by corporations in his *Corporate Crime and Violence: Big Business Power and the Abuse of the Public Trust* (Sierra Club Books, 1988). Included in the 36 case studies documented are: Agent Orange, Bhopal, Black Lung, Buffalo Creek, Dalkon Shield, Dumping Overseas, Ford, General Electric, Love Canal, Néstle, Three Mile Island and Tobacco. Of the work Ralph Nader has noted: "The notorious acts documented in this book spoil the products you buy, poison the air, water, and food you use, and destroy the government integrity that you deserve. No person in immune to their consequences."

AWAIR would be happy to put you in touch with Mr. Mokhiber for an interview by phone or in person. We also have copies of the book *Corporate Crime...*, a work of 450 pages, paperback $12.95. AWAIR can send you the book for the discounted price of $9.00 (shipping included).

GEORGE SHIBLEY was the attorney in the 1942 "People vs. Zamora Murder Case," immortalized in the musical drama by Louis Valdez and made into the movie, **Zoot Suit**, in 1981. This was the famous "Zoot Suit" trial so named by the distinctive clothing worn by the "Pachuco" kids (the name taken by Mexican-American neighborhood gangs who trademark was the Zoot Suit). Shibley explains, "They understood Spanish, but rarely spoke it. They answered their parents in English. Their dressing the Zoot Suit was an attempt to be ultra American. The Zoot Suit actually had its origins in the costume that Clark Gable wore in *Gone With The Wind*. Cab Calloway exaggerated it, popularized it among African-Americans and that's where the Pachuco kids learned it." However what they hoped would make them ultimately "American" backfired and actually set them apart. When World War II broke out and there ensured a propaganda campaign to conserve – no cuffs on pants, no wide lapels – Anglos looked down even more on these youngsters as "unpatriotic" and the horrible "Zoot Suit Riots" began in which soldiers and sailors invaded Mexican areas, beat up the Pachuco kids unmercifully and stripped them of their clothes.

The "murder" case involved Mexican-American youths accused of conspiracy in the death of another Mexican-American (Jose Diaz), found dead in a parking lot after a wedding party had turned into a fist-fight with sticks. The Los Angeles Police Department and Sheriff's Office rounded up (after the "murder") literally hundreds of Mexican-American kids – some as young as eleven years of age. They beat up a lot of them and they finally detained two or three hundred, finally charging 24.

George Shibley was brought into the case when a group of motion picture people, headed by Anthony Quinn, hired him to take over the case. Shibley, with a reputation of representing the unheard and the oppressed, represented the accused who were tried *en mass*. The impact of the case on constitutional law? It is now established that a defendant has the right to sit with his counsel and to help in his defense. (Defendants had been placed in a "prisoners box" across the room, with attorney access being limited to prison visits.) It is also now impossible for California to have mass trials.

SOURCES to investigate: Rent the movie video "Zoot Suit;" research newspaper and magazine archives of the period.

INTERNATIONAL LAW AND THE PERSIAN GULF WAR

Students should be encouraged to investigate the many areas of law that are involved in the current Persian Gulf War. The Meiklejohn Civil Liberties Institute, founded in 1965 in Berkeley, California is a unique center for peace law and human rights.

U.S. Law - the requirements of the U.S. Constitution and International Law and the U.N. Charter (both of which are part of U.S. law) all have important rules governing the declaring and conducting of such a war: The Meiklejohn "PeaceNet Bulletin #6, 8/13/90" sets forth 18 principles of law as embodied in the U.S. Constitution, Congressional Law, and the U.N. Charter and the resolutions of the Security Council (both of which are part of U.S. Law). Their "PeaceNet Bulletin #7, 9/5/90 spelis out the Nurenberg Principles.

The Peace Law Almanac (Meiklejohn: 1989) contains 209 pages of documentation including: U.N.Charter, Nuremberg Principles, Universal Declaration of Human Rights, U.S. Constitution, Neutrality Act, War Powers Resolution, Foreign Assistance Act, legislation relating human rights to U.S. foreign policy, multi-laterial and bi-lateral treaties involving the U.S., cases in the U.S.involving peace issues (ie. Conscientious Objector status), International Laws affecting peace, human rights, arms control, nuclear weapons, international tribunals. These and other documents will help students understand such concepts as "war criminal" as well as the legal limits the United Nations has set for the current "Allied" offensive.

SOURCE: Meiklejohn Institute, P.O. Box 673, Berkeley, CA 94701; (415) 848-0599.

Arab World And Islamic Resources and School Services (AWAIR) is a non-profit educational organization with 501(C)(3) tax deductible status. AWAIR is a new organization growing out of the twenty-year reputation of its Executive Eirector, Audrey Shabbas, in curriculum development and teacher training on the Middle East at the pre-college level.

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